IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

OP.No. 36428 of 2001(J)

PETITIONER:

DR.C.N.VIJAYAN,
AGED 52 YEARS,
R/O. SISLIL NIVAS,
KAYATT ROAD, THALASSERY.

BY ADV. SRI.C.K.SUDHEER

RESPONDENTS:

THE SECRETARY,
THALASSERY MUNICIPALITY,
THALASSERY.

BY ADV. SRI.T.A.RAMADASAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 01/03/2007, ALONG WITH WPC NO. 33453 OF 2003 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.No. 36428/2001

ORDER ON CMP NO. 59628/2001 IN O.P.No. 36428/2001

DISMISSED.

01/03/2007 SD/- (C.N.RAMACHANDRAN NAIR, JUDGE)

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1 COPIES OF THE DEMAND NOTICE DATED 22/10/2001.

EXT.P2 COPIES OF THE DEMAND NOTICE DATED 22/10/2001.

EXT.P3 COPIES OF THE DEMAND NOTICE DATED 22/10/2001.

EXT.P4 COPY OF THE STATEMENT DATED 15/11/2001.

// TRUE COPY //

PA TO JUDGE

jg

C.N.RAMACHANDRAN NAIR, J.

O.P. No. 36428 of 2001 &
WP(C) No. 33453 of 2003 of 2003

Dated, this the 1st day of March, 2007

J U D G M E N T

The connected writ petitions are filed challenging recovery of arrears of property tax payable in respect of three-storeyed building, presently owned by the petitioner in WPC 33453/2003. The case of the said petitioner is that the building was originally owned by the 4th respondent in the said writ petition, which was sold by the 4th respondent to the 3rd respondent, from whom petitioners purchased. The building is in arrears of tax is an admitted fact. The learned counsel for the Municipality rightly pointed out that Sec. 237 of the Kerala Municipalities Act creates charge on the property and Municipality is entitled to recover the tax by attachment and sale of the building. In fact, transfer of property needs to be intimated under Sec. 240 of the Municipalities Act and Municipality has to change the entries in the register only after clearing the arrears. In the circumstance, the challenge against recovery of tax by attachment and sale of

property is only to be rejected and I do so. Purchasers have no right to contest in tax arrears on the ground that the same is high because at the time of the assessment, property was in the hands of the previous owners as is clear from the counter affidavit. So far as the present owners' right to recover the tax from the previous owners, I do not want to enter any findings because sale is covered by contract between parties and it is up to the parties to enforce the terms of agreement in Civil Court.

These writ petitions are disposed of as above.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg